



**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**Planning Commission**

*Promoting the wise use of land  
Helping build great communities*

MEETING DATE January 29, 2015 EFFECTIVE DATE February 13, 2015	CONTACT/PHONE Megan Martin (805) 781-4163 mamartin@co.slo.ca.us	APPLICANT Richard C. Yingling & Verizon Wireless	FILE NO. DRC2013-00115
<b>SUBJECT</b> A request by Richard C. Yingling and Verizon Wireless for a Conditional Use Permit to allow for the construction and operation of an unmanned wireless communications facility consisting of: a) three (3) new antenna sectors with three (3) directional antennas per sector mounted at a height of 45 feet above ground level attached to a 50-foot tall artificial pine tree (monopine) with branches extending to 55 feet; b) one 11'-6" x 16'-10.5" prefabricated equipment shelter; c) one 132-gallon diesel generator on a 6' x 13 concrete slab; d) a new 6' tall chain link fence with 12' tall access gate at the lease area perimeter; e) landscape screening at the lease area perimeter to screen the chain link fence; f) associated utility trenching for the installation of power and telco lines; and g) improvement of an existing 12 foot wide access road to meet Cal Fire Standards and extending the access road by 500 feet to the proposed site along a 15 foot wide access road. The project is located on an approximately 7.42 acre parcel and will result in the disturbance of approximately 2,500 square feet (50'-0" x 50'-0" lease area and concrete pad) for the proposed facility. There will be an additional 10,816 square feet of site disturbance (190 cubic yards of cut) for the improvements and extensions of the access road. The proposed project is within the Residential Rural land use category, and is located at 6269 Hog Canyon Road, approximately 2.45 miles northeast of the City of Paso Robles, in the El Pomar-Estrella sub area of the North County planning area.			
<b>RECOMMENDED ACTION</b> 1. Adopt the Mitigated Negative Declaration (ED14-006) in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. 2. Approve Conditional Use Permit DRC 2013-00115 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
<b>ENVIRONMENTAL DETERMINATION</b> The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on December 4, 2014 for this project. Mitigation measures are proposed to address Aesthetics and are included as conditions of approval. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement. Comments will be accepted up until completion of the public hearing(s).			
LAND USE CATEGORY Residential Rural	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 019-321-022	SUPERVISOR DISTRICT(S) 1
<b>PLANNING AREA STANDARDS:</b> El-Pomar-Estrella Planning Area, Portion of Independence Tract Does the project meet applicable Planning Area Standards: None applicable			
<b>LAND USE ORDINANCE STANDARDS:</b> Section 22.30.180 - Communications Facilities Does the project conform to the Land Use Ordinance Standards: Yes - see discussion			

EXISTING USES: Single family residence	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential rural; single family residence      East: Residential rural; single family residence <i>South:</i> Residential rural; single family residence      West: Residential rural; single family residence	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Cal Fire, San Miguel Advisory Council	
TOPOGRAPHY: Gently sloping to moderately sloping	VEGETATION: Single family residence, scattered grassland
PROPOSED SERVICES: Water supply: N/A Sewage Disposal: N/A Fire Protection: Cal Fire	ACCEPTANCE DATE: March 27, 2014
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 <sup>th</sup> day following the administrative hearing, or on February 13, 2015, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242	

### ***Telecommunications Act***

The County's local authority to regulate wireless communications facilities, such as the proposed project, is limited by the federal Telecommunication Act (TCA). While affirming local government authority to regulate the placement and construction of wireless facilities, the TCA also places some important limitations on this authority. One well-known example of these limitations is the preemption of local regulation on the basis of concerns over RF emissions. In addition to this limitation, the TCA also:

- Requires local governments to act on applications for new wireless facilities within a "reasonable amount of time;"
- Requires that any permit denial be in writing and based on substantial evidence in the record;
- Prohibits unreasonable discrimination against competing wireless carriers; and
- Bars local regulations that would prohibit or have the effect of prohibiting the provision of personal wireless service<sup>1</sup>.

### ***Project Site***

The project site is located within a rural residential setting. The surrounding landscape is characterized by rolling hills covered with a mix of low density residential development on 7 to 10 acre parcels, grasslands, vineyards, pastures, and dry farm grain fields with a mix of oaks and pine trees.

The proposed project would be located on a 7.42 acre parcel in the Rural Residential land use category. The subject parcel contains a single-family residence, an outdoor storage structure, and a water storage tank. The proposed wireless facility would be located at the northeast corner of the subject property, north of the single-family residence.



### ***Proposed Project***

The proposed unmanned wireless communications facility would be located in the northeast corner of the property, north of the existing single-family residence. The proposed facility, which resembles an artificial pine tree (monopine), has been designed to blend (rather than contrast) with the existing visual context. There are existing pine trees on the project site as well as on adjacent properties.

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<sup>1</sup> The federal courts use a two pronged test to determine when a local jurisdiction's denial of a single project constitutes an "effective prohibition" of service. Under this test, the carrier must show that: A) the proposed project would close a significant gap in service; and B) the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve.

The proposed facility would consist of the following components:

- Three (3) new antenna sectors with three (3) directional antennas per sector mounted at a height of 45 feet above ground level attached to a 50-foot tall artificial pine tree (monopine) with branches extending to 55 feet.
- One 11'-6" x 16'-10.5" prefabricated equipment shelter.
- One 132-gallon diesel generator on a 6' x 13 concrete slab.
- A new 6' tall chain link fence with 12' tall access gate at the lease area perimeter.
- Landscape screening at the lease area perimeter to screen the chain link fence.
- Associated utility trenching for the installation of power and telco lines.
- Improvement of an existing 12 foot wide access road to meet Cal Fire Standards and extending the access road by 500 feet to the proposed site along a 15 foot wide access road.
- An additional 10,816 square feet of site disturbance (190 cubic yards of cut) for the improvements and extension of the access road.

### ***Visual Impacts***

As described above, the project's visual impacts are largely mitigated through its design as a monopine that blends with the landscaping of the surrounding visual setting. In order to evaluate the effectiveness of this design, the applicant submitted photo-simulations of the proposed facility from key viewing angles. As determined through the photo-simulations, the proposed monopine is compatible with the surrounding visual features as viewed from public areas along Hog Canyon Road. The proposed project would not appear out of character with the surrounding landscape and would not degrade the natural landscape as seen by travelers along public roads.

### ***Noise Impacts***

Noise exposure from the proposed HVAC unit is expected to be approximately 67 dB at a distance of 10 feet from the equipment. The cellular facility maintains a separation of 150 to 520 feet from sensitive receptors (nearest residences). Project-equipment noise exposure at the closest receivers predicted HVAC noise levels of 33-43 dB at the nearest sensitive receiver locations. This satisfies the 45 dB nighttime noise standard set forth in Section 22.10.120(B).

The project emergency generator would be tested during daytime hours only and, as conditioned, testing would be restricted to a maximum of 15 minutes per week. The emergency generator would only operate at night during power outages. The operation of the project emergency generator is exempt from the County's exterior noise exposure criteria because it falls under the exceptions to noise standards Section 22.10.120(A)(2) where any mechanical device, apparatus or equipment related to or connected with emergency activities is exempt from the noise standards of Title 22.

Project-related equipment noise exposure is expected to satisfy the applicable noise exposure limits set forth in Title 22.

### ***Alternatives Analysis***

In addition to the Yingling site, Verizon considered 16 alternative locations for the proposed facility (see attached document: Project Support Statement). Verizon determined that collocation was not possible because there are no existing wireless structures within the search area for the proposed project. Of the 16 new locations investigated, Verizon considered three (3) alternative locations. Verizon evaluated the feasibility of each alternative using the following criteria:

- **Can a lease be obtained?** Verizon contacted the owners of each site to determine whether or not they would be willing to lease space for a facility. Without a willing landowner, a site is not considered a feasible alternative.
- **Would coverage be achieved?** Considers whether the site would meet the project's coverage objective, either individually or when combined with other alternative sites. Verizon's coverage objective is shown on the attached propagation maps.
- **Does it meet County ordinance requirements?** Considers whether a wireless communications facility is an allowed use on the site and whether the site has the visual context and physical space to support a stealth structure.
- **Could it be constructed?** Considers whether the site has the infrastructure (e.g. power, telco, and access) in place or, if not, whether infrastructure could feasibly be developed on the site. For example, in order to develop a facility on a remote undeveloped hilltop in the Paso Robles area, Verizon would have to grade on steep slopes and install miles of underground power utilities. This could make such a site financially and environmentally infeasible.

The alternatives analysis failed to identify an alternate site within the area that would support the proposed project and its coverage objective.

#### LAND USE ORDINANCE STANDARDS:

##### **Section 22.30.180 – Communications Facilities**

This section describes permitting requirements as well as siting and design standards for proposed wireless communications facilities. The requirements of this Section apply to communications transmission and receiving facilities in addition to all applicable permit requirements and standards of the Federal Communications Commission (FCC) and any other applicable Federal or State statutes or regulations.

##### Radio Frequency Analysis

Section 22.30.180(B) requires applications for communications facilities to include estimates of non-ionizing radiation generated and/or received by the facility. These shall include estimates of the maximum electric and magnetic field strengths at the edge of the facility site and the extent that measurable fields extend in all directions from the facility.

*Staff Response: The applicant supplied a report to evaluate the proposed communications facility for compliance with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic fields. According to the RF report for this project (Hammett & Edison; May 2, 2014), the maximum level of RF emissions from the proposed facility would be equivalent to 4.1 percent of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby building (located at least 170 feet away) is 2.9% of the public exposure limit.*

##### Permit requirements

Section 22.30.180(C)(1) requires Minor Use Permit approval for proposed wireless communications facilities that share locations with their own or other carriers' antennas either on existing monopoles, existing structures (buildings, water tanks, signs, etc.) or any other existing structure.

*Staff Response: This standard allows new communications facilities to be reviewed through a minor use permit (rather than a conditional use permit) when the proposed facility is located on an existing structure (rather than a new antenna support structure). Based on this standard, the proposed project would require conditional use permit approval since it would require the construction of a new antenna support structure: a 55-foot tall monopine.*

#### Co-location

Section 22.30.180(C)(2)(b) requires that when co-location is not proposed, the applicant shall provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site.

*Staff Response: The purpose of this requirement is to minimize visual impacts by concentrating telecommunications equipment in the fewest possible number of locations, rather than scattering facilities across the county. It is usually in a carrier's interest to comply with this requirement since "collocation" sites are strategically located to provide superior coverage, already have the necessary infrastructure in place (access, power, and telco), and are approved through the more expedient and less expensive minor use permit (rather than conditional use permit) process.<sup>2</sup>*

*As described in the attached alternatives analysis, Verizon considered 16 alternative locations and evaluated the feasibility of three (3) other sites in the area. However, as described below, these sites did not meet Verizon's feasibility criteria:*

- **Cambell Property – 6242 Hog Canyon Road.** Verizon considered constructing a new facility at this location. However this property was determined to be too far from the center of the search area, and impacted by the shadowing of the hills to the south.
- **Borges Property – 6249 Hog Canyon Road.** Verizon considered constructing a new facility at this location. However this property was deemed to be unsuitable as the proposed lease area would be shadowed by the landowner's two-story home.
- **Denning Property – 6263 Hog Canyon Road.** Verizon considered constructing a new facility at this site location. However, amenable lease terms could not be reached with the property owner.

#### Development standards

According to Section 22.30.180(C)(3), the preferred placement for new wireless communication facilities is on existing structures, completely hidden from public view or painted and blended to match existing structures. In addition, all facilities shall be screened with vegetation or landscaping. Where screening with vegetation is not feasible, the facilities shall be disguised to resemble rural, pastoral architecture (e.g. windmills, barns, trees) or other features determined to blend with the surrounding area and be finished in a texture and color deemed unobtrusive to the neighborhood in which it is located.

*Staff Response: As described in the attached alternatives analysis, the applicant evaluated the feasibility of locating the proposed facility at three (3) alternative locations and was unable to find a site*

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<sup>2</sup> The industry's preference for collocation sites is reflected in the County's historical permitting records, which show that 78 percent (or 36) of the 46 wireless projects processed by the County over the past four years have been located at existing telecommunications sites.

*that would prove adequate for purposes of achieving maximum coverage for the identified area.*

*The proposed project meets the visual screening requirements of this section because it is a stealth design that blends and is consistent with the character of the surrounding area. As conditioned, the monopine will be designed and constructed to appear as an organic, non-symmetrical form, with varying branch lengths and shapes and "needle" clusters installed in random, seemingly natural-occurring patterns. The branch lengths will taper up the monopine "trunk" and the longest (lowest) branches will begin at a sufficient elevation to blend with the existing tree line as viewed from all surrounding public roads.*

#### Unused facilities

Section 22.30.180(C)(4) requires all obsolete or unused facilities to be removed within 12 months of cessation of communication operations at the site.

*Staff Response: The project is consistent with this standard because the applicant is required to enter into a performance agreement and financial instrument for site restoration.*

#### AGENCY REVIEW:

Public Works: "No comment"

Environmental Health: "Applicant shall submit, to the Environmental Health office, the hazardous materials business plan for the proposed cell site. The plans shall be reviewed and approved prior to final sign off."

Cal Fire: Established several requirements as conditions for final approval. The applicant shall comply with all applicable fire and building codes. The existing driveway and proposed access improvements must be made, and the proposed 12 foot wide gravel road must provide an all-weather surface capable of supporting a minimum 20-ton load capacity. The landowner shall continue to reduce and/or remove vegetation a minimum of 30 feet from the existing water storage tank. The existing access numbering must meet current Fire Code standards. A minimum of 100-feet of defensible space shall be required. A single fire extinguisher shall be required.

San Miguel Advisory Council: The advisory council recommended approval and found no issues with the project as proposed.

#### LEGAL LOT STATUS:

The one existing parcel was legally created by a recorded map, Parcel Map COAL 86-133, Parcel #2 (Book 40 of Parcel Maps, Page 77) at a time when that was a legal method of creating parcels.

Staff report prepared by Megan Martin and reviewed by Airlin Singewald.